

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 22, 2013

Lyle W. Cayce
Clerk

No. 12-50886

Summary Calendar

JAMES EDWARD DEEVER,

Petitioner-Appellant

v.

WARDEN CLAUDE MAYE,

Respondent-Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:10-CV-15

Before WIENER, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:*

James Edward Deaver, federal prisoner # 91858-080, appeals the dismissal of his 28 U.S.C. § 1651(a) petition. Deaver claims that the denial of his § 1651(a) petition was error, arguing that such a petition is the only remedy available to him to seek invalidation of his unjust sentence for conspiracy to possess with intent to distribute amphetamine. As he attacks the validity of his sentence, his claim arises under § 2255, thus relief under the All Writs Act is unavailable to him. *See Carlisle v. United States*, 517 U.S. 416, 429 (1996); *see*

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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also Tolliver v. Dobre, 211 F.3d 876, 877 (5th Cir. 2000). The district court properly dismissed the petition because we did not authorize the filing of a successive § 2255 motion. Accordingly, the appeal is frivolous, and it is dismissed. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2.